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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,710	07/25/2003	Costanzo Lorenzotti	001US1	1892

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EXAMINER

MATZEK, MATTHEW D

ART UNIT	PAPER NUMBER
1771	

DATE MAILED: 08/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/626,710

**Applicant(s)**

LORENZOTTI ET AL.

**Examiner**

Matthew D. Matzek

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14-17 and 21-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-17 and 21-28 is/are rejected.
- 7) ☒ Claim(s) 14-17 and 21-28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2003 and 28 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Response to Amendment***

1. The amendment submitted 5/24/2005 has been considered and entered into the Record. Claims 1-13 and 18-20 have been canceled. New claims 21-28 have been added to the Record and are currently pending. The rejections applied against claims 14-17 under 35 U.S.C. § 102 (b) are maintained following amendment. All instantly pending claims are addressed in the following Office Action. In the previous Office Action the rejection applied under 35 U.S.C. § 102 (e) in view of Evans et al. (US 3,494,821), were improperly made under 102 (e). The rejection is properly applied under 102 (b). The rejection remains under 35 U.S.C. § 102 and as such does not necessitate the withdrawal of the previously applied rejection.
2. Claims 14-17 are objected to because of the following informalities: It is unclear as to what is intended by Applicant's use of "woven/non-woven". The Examiner has taken the position that "woven/non-woven" is intended to mean woven or non-woven. Please clarify and appropriate correction is required.

***Claim Objections***

3. Claim 28 is objected to as being dependent upon canceled claim 1. For examining purposes Examiner assumes that claim 28 is dependent upon claim 14.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 14 and 27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not

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described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation set forth in claims 14 and 27 of "substantially uniform length" has not been provided for in the previous set of claims or the Specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "micronaire" officially does not have units of measurement, but is understood to be weight in micrograms per inch of fiber length, therefore "a thickness of not greater than 4.5 micronaire" renders the claim indefinite.
6. Claim 26 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant recites that the fibers are bound in a horizontal direction and a transverse direction, but does not specify to what reference point the fibers are bound in horizontal and transverse directions.
7. The term "substantially" in claims 14 and 27 is a relative term, which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.
8. The term "high" in claim 24 is a relative term, which renders the claim indefinite. The term "high" is not defined by the claim, the specification does not provide a standard for

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ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 14-17 and 21-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Quantrille et al. (US Patent 5,431,991).
10. Quantrille et al. disclose a process of hydroentangling cotton staple fibers to form a web (col. 3, lines 30-37). Typically the web will have a basis weight ranging between 15 grams per square meter (gsm) to 200 gsm (col. 5, lines 16-20). The limitation that the natural fibers comprise waste fibers or a by-product does not provide for a patentably distinct article from that of the applied art as the manner in which the fibers are formed does not lead to a unique or novel end product. The length limitation provided in claim 15 is met as the length of cotton “staple fibers” is less than 1 inch (<25.4 mm) (Textile Glossary). Claim 22 is rejected as natural cotton fibers are naturally non-allergenic [0041, Applicant’s Specification]. Claims 24 and 25 are rejected as the applied art teaches the use of cotton staple fibers and in Applicant’s specification it is taught to meet the instant limitations in [0041]. Claim 26 is rejected as the applied article comprises three layers including intermediate layer 10 that comprises machine-directional (MD) or horizontal and cross-directional (CD) or transversal fibers (Abstract and Fig. 3).

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11. Claims 14-17, 21-25, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Cohen et al. (US Patent 5,736,473).

12. Cohen et al. disclose a fibrous composite structure with a basis weight of from about 6 to 400 gsm (col. 6, lines 5-10). The fibrous composite may contain hydroentangled cotton staple fibers (col. 9, lines 25-32). The limitation that the natural fibers comprise waste fibers or a by-product does not provide for a patentably distinct article from that of the applied art as the manner in which the fibers are formed does not lead to a unique or novel end product. The length limitation provided in claim 15 is met as the length of cotton "staple fibers" is less than 1 inch (<25.4 mm) (Textile Glossary). Claim 22 is rejected as natural cotton fibers are naturally non-allergenic [0041, Applicant's Specification]. Claims 24 and 25 are rejected as the applied art teaches the use of cotton staple fibers and in Applicant's specification it is taught to meet the instant limitations in [0041].

13. Claims 14-17, 21-25, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Evans et al. (US Patent 3,494,821).

14. Evans et al. disclose a nonwoven fabric of highly entangled staple fibers via hydraulic entangling (Abstract). The suitable "staple" fibers of the applied patent may have a length of from about 6mm. to 15 cm. include cotton fibers (col. 3, lines 20-37). The examples disclosed in the applied patent have basis weights that range from 17 to 65 gsm. The limitation that the natural fibers comprise waste fibers or a by-product does not provide for a patentably distinct article from that of the applied art as the manner in which the fibers are formed does not lead to a unique or novel end product. Claim 22 is rejected as natural cotton fibers are naturally non-allergenic [0041, Applicant's Specification]. Claims 24 and 25 are rejected as the applied art

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teaches the use of cotton staple fibers and in Applicant's specification it is taught to meet the instant limitations in [0041].

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Quantrille et al. (US Patent 5,431,991) as applied to claims 14 and 27 above, and further in view of Meitner et al. (US 4,426,417). The article of Quantrille et al. is silent as its thickness.

a. Meitner et al. teach a wiper comprising a matrix of nonwoven fibers having a basis weight in the range of 25 to 300 gsm, comprising cotton staple fibers (Abstract).

The thicknesses of examples 1-3 are shown in Table 1. The thicknesses are in the range of 1 to 10 mm. The article of Meitner et al. is specifically designed for absorbent purposes (Abstract).

b. Since Quantrille et al. and Meitner et al. are from the same field of endeavor, (i.e. cotton staple fiber absorbent articles) the purpose disclosed by Meitner et al. would have been recognized in the pertinent art of Quantrille et al.

c. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the cotton staple fiber absorbent article of Quantrille et al. with the motivation of the successful creation of an absorbent article.

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16. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen et al. (US Patent 5,736,473) as applied to claims 14 and 27 above, and further in view of Meitner et al. (US 4,426,417). The article of Cohen et al. is silent as its thickness.

a. Meitner et al. teach a wiper comprising a matrix of nonwoven fibers having a basis weight in the range of 25 to 300 gsm, comprising cotton staple fibers (Abstract). The thicknesses of examples 1-3 are shown in Table 1. The thicknesses are in the range of 1 to 10 mm. The article of Meitner et al. is specifically designed for absorbent purposes (Abstract).

b. Since Cohen et al. and Meitner et al. are from the same field of endeavor, (i.e. cotton staple fiber absorbent articles) the purpose disclosed by Meitner et al. would have been recognized in the pertinent art of Cohen et al.

c. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the cotton staple fiber absorbent article of Cohen et al. with the motivation of the successful creation of an absorbent article.

17. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans et al. (US Patent 3,494,821) as applied to claims <sup>14 + 27</sup> above, and further in view of Meitner et al. (US 4,426,417). The article of Evans et al. is silent as its thickness.

a. Meitner et al. teach a wiper comprising a matrix of nonwoven fibers having a basis weight in the range of 25 to 300 gsm, comprising cotton staple fibers (Abstract). The thicknesses of examples 1-3 are shown in Table 1. The thicknesses are in the range of 1 to 10 mm. The article of Meitner et al. is specifically designed for absorbent purposes (Abstract).



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- b. Since Evans et al. and Meitner et al. are from the same field of endeavor, (i.e. cotton staple fiber absorbent articles) the purpose disclosed by Meitner et al. would have been recognized in the pertinent art of Evans et al.
- c. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the cotton staple fiber absorbent article of Evans et al. with the motivation of the successful creation of an absorbent article.

***Response to Arguments***

18. Applicant's election with traverse of the restriction set forth in the previous Office Action in the reply filed on 5/24/2005 is acknowledged. The traversal is on the ground(s) that no additional burden would be placed on Examiner to examine Groups I, II and III and that the financial burden upon Applicant to file divisional applications to prosecute the non-elected invention is greater than the burden placed upon Examiner to search the non-elected Groups. This is not found persuasive because the Restriction is proper as the elected article may be made via a different process and different apparatus than instantly claimed by Applicant and the non-elected inventions are located in different classifications than the elected article and would necessitate separate searches thereby resulting in an excessive burden placed upon Examiner.

The requirement is still deemed proper and is therefore made FINAL.

- 19. Applicant's arguments filed 5/24/2005 have been fully considered but they are not persuasive.
- 20. Applicant argues that Quantrille et al. ('991) does not teach the fibers used have a "substantially uniform length". The Examiner takes the position that the teaching of "staple"

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fibers necessitates a substantial uniform length as the length of staple cotton fibers is well known and has a specified value.

21. Applicant argues that instantly claimed article is made via a different process than '991 and is made of 100% pure cotton fibers. The instant limitation in claim 17 of an article comprising pure cotton does not preclude the article from containing fibers other than cotton fibers. The article of '991 is formed via hydroentanglement thereby creating an article that is create via the same process as in instant claim 14.

22. Applicant argues that Cohen et al. ('473) does not teach the fibers used have a "substantially uniform length". The Examiner takes the position that the teaching of "staple" fibers necessitates a substantial uniform length as the length of staple cotton fibers is well known and has a specified value.

23. Applicant argues that instantly claimed article is made via a different process than '473 and is made of 100% pure cotton fibers. The instant limitation in claim 17 of an article comprising pure cotton does not preclude the article from containing fibers other than cotton fibers. The article of '473 is formed via hydroentanglement thereby creating an article that is create via the same process as in instant claim 14.

24. Applicant argues that Evans et al. ('821) does not teach the fibers used have a "substantially uniform length". The Examiner takes the position that the teaching of "staple" fibers necessitates a substantial uniform length as the length of staple cotton fibers is well known and has a specified value. '821 also provides the previously stated size limitation along with specifying the use of "staple" fibers. '821 does not need to teach the importance of the fiber

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length to the creation of the article provided the specified range is disclosed, which is met by the use of staple fibers.

*Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Matzek whose telephone number is (571) 272-2423. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mdm

*mdm*

*mtv*  
**NORCATORRES**  
**PRIMARY EXAMINER**